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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,668	03/20/2001	Nigel Ashley Preston	2339-0120P	9401

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EXAMINER

VU, PHUONG T

ART UNIT	PAPER NUMBER
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2841

DATE MAILED: 08/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/811,668

Applicant(s)

PRESTON ET AL.

Examiner

Phuong T. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1, 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Leon et al. (US 6,097,306). Regarding claim 1, the reference discloses an intrinsically safe portable device 118 for configuring the operation of electronic process control equipment 2, said electronic process control equipment having a wireless communication receiver 86, said device comprising an enclosure (see figure 10), an electronic circuit (see figure 13) mounted in said enclosure, a keypad 139 coupled to said electronic circuit, a wireless transmitter 100 responsive to said electronic circuit and operative to control signals to the wireless communication receiver on the electronic process control equipment for controlling the operation of the electronic process control equipment, said electronic circuit including a low voltage power supply 136 and a low power microcontroller 128 for operating at a low voltage level to eliminate the incidence of sparking.

Regarding claim 4, the wireless transmitter comprises an infrared transmitter.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leon et al. (US 6,097,306). Regarding claim 5, the low voltage power supply comprises a single cell lithium battery. The reference discloses the claimed invention but is silent about the operating voltage of the electronic circuit. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an operating voltage of 3 volts since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leon et al. (US 6,097,306) in view of Pennisi et al. (US 5,313,365). Regarding claim 2, Leon does not teach providing an electronic circuit that is encased in epoxy inside the enclosure to provide a barrier against sparking. However, Pennisi et al. teaches that it is known in the art to use epoxy encapsulants to cover electronic circuits to mitigate physical and electrical degradation to the circuits caused by corrosion, moisture, ionic contamination, and mechanical stresses including vibration and shock. The Pennisi reference is relied upon solely for this teaching. It would have been obvious to those skilled in the art at the time the invention was made to provide modify the device of

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Leon to provide an electronic circuit encased with epoxy as taught by Pennisi for the advantages noted above.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leon et al. (US 6,097,306) in view of Pennisi et al. (US 5,313,365) and Nakano et al. (US 5,166,238). Regarding claim 3, the Leon reference does not provide any details on the composition of the enclosure. Neither the Leon nor the Pennisi reference teaches providing an enclosure formed from general polystyrene polymers. However, Nakano teaches that it is known to use polystyrene polymers to form enclosures for electronic equipment. It would have been obvious to those skilled in the art at the time the invention was made to form the enclosure of the above mentioned device of polystyrene polymers as taught by Nakano as this polymer material provides excellent heat resistance, solvent resistance, mechanical strength, chemical resistance, modulus of elasticity, and dimensional stability. Regarding the claimed surface resistivity, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a polystyrene polymer with a surface resistivity as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong T. Vu whose telephone number is (703) 308-0303. The examiner can normally be reached on Mon. & Tues., 7:30 AM - 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (703) 308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

PTVu

August 20, 2002